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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/616,770

07/10/2003

Robert V. Nonneman

018360-261264

1969

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7590

04/30/2008

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EXAMINER

ZARE, SCOTT A

ART UNIT

PAPER NUMBER

3687

MAIL DATE

DELIVERY MODE

04/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/616,770	Applicant(s) NONNEMAN ET AL.	
	Examiner SCOTT A. ZARE	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45, 48-56 and 60-133 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 and 59-124 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-45, 48-56 and 125-133 is/are rejected.
- 7) ☐ Claim(s) 48 and 50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 and 22 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/10/2003; 10/28/2003; 12/28/2004; 02/08/2005;</u> | 6) <input type="checkbox"/> Other: _____ |
| <u>06/20/2005; 08/18/2005; 12/27/2006; 12/27/2006.</u> | |

DETAILED ACTION

Election/Restrictions

The Non-Final Rejection mailed 12/26/2007 was vacated in favor of a Restriction Requirement which was mailed 01/15/2008. Applicant's election of Group II (claims 33-59) in the reply filed on 02/11/2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Within Group II, claims 46-47 and 57-59 have been cancelled. In addition, claims 125-133 have been added.

Claim Objections

Claims 48 and 50 are objected to because they depend on a claim (specifically, claim 46) which has been cancelled. For purposes of this Office action, these claims have been interpreted to depend on independent claim 33.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 33, 42, and 125 (and all subsequent dependent claims) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly

point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 33 recites "the object *variably defined by a sender* to identify either a product, a package containing product, or a group of packages containing products." The italicized language above renders the claim indefinite. While the Specification provides that "the definition of the object **20** can be varied so as to be useful to the sender **15** in tracking shipment of the objects of interest" (see Specification, pg. 9), it remains unclear what "variably defined by a sender" requires the prior art to disclose. For example, this language could be interpreted narrowly such that the system mandates the sender to define the object as one of the three listed possibilities (i.e., a product, a package containing product, or a group of packages containing products). Alternatively, this language could be interpreted such that the object is sometimes defined by a sender (i.e., variably) and sometimes it is not defined. Lastly, this language could be interpreted broadly to merely require the object to be defined as any one of the three listed possibilities. For purposes of this Office action, the limitation has been interpreted to describe the latter definition (i.e., merely require the object to be defined as any one of the three listed possibilities).

Additionally, claim 33 recites "a second computer system" but in fact it is the third computer system recited in the claim. For purposes of this Office action, it is interpreted as such.

Claim 42 recites "wherein the scanner comprises an electromagnetic scanner. Claim 42 depends on claim 41 which recites that "a barcode [is] scanned by the optical

scanner." These claims are contradictory because claim 41 recites an optical scanner while claim 42 recites an electromagnetic scanner.

Claim 125's recitation of "a second computer system" is vague and indefinite because it fails to distinguish whether it is the same computer system as "a second computer system" recited in claim 33 or a different computer system. For purposes of this Office action, claim 125's recitation is interpreted to refer back to the "second computer system" recited in claim 33.

Claim 126 similarly recites "a third computer system," a limitation stated in claim 125. Thus, it is unclear whether this limitation refers back to the limitation in claim 125 or whether this limitation is a different computer system.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-40, 42-45, and 48-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westbury et al. (US 6,873,963, referred hereinafter as "Westbury") in view of Swan et al. (US 6,901,304, referred hereinafter as "Swan") in further view of Boucher et al. (US 2003/0097306, referred hereinafter as "Boucher").

In regard to claim 33, Westbury discloses a system for transporting a package from a sender to a receiver by a carrier, the system comprising:

- a sender computer system (i.e., source **12**) comprising:
 - a processor configured to:
 - transmit object identification data identifying an object, the object variably defined by a sender to identify either a product, a package containing a product, or a group of packages containing products (see column 3, line 64 – column 4, line 10, disclosing a “unique package number”); and
- a carrier computer system (i.e., tracking system **20**) comprising:
 - a processor configured to:
 - receive the object identification data (see column 3, line 64 – column 4, line 10, disclosing “part number”);
 - receive package identification data (see column 3, line 64 – column 4, line 10, disclosing a “unique package number”);
 - receive event data that is generated as the object passes through at least one portal (see column 4, lines 25-65, disclosing “carrier **14** issues an electronic document to tracking system **20**” which include information such as “departure and arrival times”);
 - store the object identification in association with the package identification data and the event data in association with the package identification data (see column 5, lines 13-16, disclosing “tracking system **20** loads the information provided by all

commodity information and all the carrier shipment notifications into a standard database”);

- transmit the data to a second computer system (see column 3, lines 40-50, and FIG. 1, disclosing “Manufacturer **16**”).

Westbury does not disclose wherein the at least one portal has at least one scanner.

Swan discloses a portal with a scanner. (See column 4, line 50 - column 5, line 10.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Westbury to include wherein the portal has a scanner because scanners would allow the system to read information about the items at the portal and “maintain disposition information about the items, which is made visible to enterprises in the supply chain.” (See column 1, under “SUMMARY”).

Also, while Westbury discloses that the data can be read and used by computer systems implementing various data formats, protocols, and applications (see column 5, lines 15-48, disclosing “all commodity information and all the carrier shipment notifications [are loaded] into a standard database” to generate “the supply shipment report”), it does not specifically show tagging the object identification data, the package identification data, and the corresponding event data.

Boucher discloses tagging data so it can be read and used by computer systems implementing various data formats, protocols, and applications. (See paragraph 35, disclosing “specific data tags.”)

It would have been obvious to one of ordinary skill in the art to modify Westbury to include data tags because "data tags would be required to describe output data in a complete form." (See paragraph 35.)

In regard to claim 34 (dependent on claim 33), Westbury further discloses wherein the object is the product. (See column 4, disclosing "supplier goods")

In regard to claim 35 (dependent on claim 33), Westbury further discloses wherein the object is the package. (See column 4, disclosing "shipment")

In regard to claim 36 (dependent on claim 33), Westbury does not disclose wherein the object is the group of packages. Swan discloses wherein the object is the group of packages. (See column 4, lines 20-30.)

It would have been obvious to one of ordinary skill in the art to modify Westbury to include wherein the object is the group of packages because that would allow "data structures and persistent storage 202 records" to "maintain[] a representation of the relationship, state, and history of logical and physical items tracked by the [system]."

In regard to claim 37 (dependent on claim 33), Westbury does not disclose wherein the object is a parent that contains at least one child object. Swan discloses wherein the object is a parent that contains at least one child object having respective object identification data. (See column 4, lines 20-30.)

It would have been obvious to one of ordinary skill in the art to modify Westbury to include wherein the object is a parent that contains at least one child object because that would allow "data structures and persistent storage 202 records" to "maintain[] a

representation of the relationship, state, and history of logical and physical items tracked by the [system]."

In regard to claim 38 (dependent on claim 33), Westbury further discloses wherein the processor of the sender computer system is further configured to:

- transmit the package identification data to the carrier computer system. (See column 3, line 64 – column 4, line 10);

In regard to claim 39 (dependent on claim 33), Westbury does not disclose wherein the package identification data is provided by the scanner of the first portal to encounter the package as the carrier transports the package from sender to receiver.

Swan discloses wherein package identification data is provided by the scanner of the first portal to encounter the package as the carrier transports the package from sender to receiver. (See column 11, line 54 – column 12, line 30.)

It would have been obvious to one of ordinary skill in the art to modify Westbury to include wherein the package identification data is provided by the scanner of the first portal to encounter the package as the carrier transports the package from sender to receiver to so that the system is could "provide for periodic updates of location. (See column 12, line 56.)

In regard to claim 40 (dependent on claim 33), Westbury does not disclose wherein the scanner comprises an optical scanner that scans the package identification data from a shipping label attached to the package. Swan discloses wherein the scanner comprises an optical scanner that scans the package identification data from a shipping label attached to the package. (See column 4, line 65.)

It would have been obvious to include wherein the scanner comprise an optical scanner that scans the package identification data because an optical scanner is one of many technologies that could be used to read information from a tagged item. (See column 4.)

In regard to claim 42 (dependent on claim 41), Westbury does not disclose wherein the scanner comprises an electromagnetic scanner. Swan discloses wherein the scanner comprises an electromagnetic scanner scanning at least the object identification data from the product inside of the package. (See column 4, line 60 – column 5, line 10.)

It would have been obvious to one of ordinary skill in the art to modify Westbury to include wherein the scanner comprises an electromagnetic scanner because that would allow a tag to be read “without physical contact between the tag and the reader.” (See column 4.)

In regard to claim 43 (dependent on claim 42), Westbury does not disclose wherein the object identification data is encoded in a radio frequency identification (RFID) tag scanned by the electromagnetic scanner. Swan teaches wherein the object identification data is encoded in a radio frequency identification (RFID) tag scanned by the electromagnetic scanner. (See column 4, line 60 – column 5, line 10.)

It would have been obvious to one of ordinary skill in the art to modify Westbury to include wherein the object identification data is encoded in a RFID tag scanned by the electromagnetic scanner as taught by Swan because that would allow a tag to be read “without physical contact between the tag and the reader.” (See column 4.)

In regard to claim 44 (dependent on claim 33), Westbury further discloses wherein the portal is associated with an event related to the status of the package in route from the sender to the receiver within the transport and storage network of the carrier. (See column 4, lines 25-65.)

In regard to claim 45 (dependent on claim 33), Westbury discloses wherein the portal is located at one of sender's location. (See column 4 lines 25-65.)

In regard to claim 48 (interpreted to be dependent on claim 33), Westbury further discloses wherein the event data includes description data associated with the event. (See column 4, e.g., "ETA".) Westbury further describes the event by using the identify of at least one of the scanner and portal (in this case the portal) reporting the package identification data to the carrier computer system. (See column 4, lines 25-45.)

In regard to claim 49 (dependent on claim 48), Westbury discloses wherein the description data comprises characters describing the event as at least one of "package pick up," "package received at pickup distribution hub," "package exited pickup distribution hub," "package on long-haul transport," "package off long-haul transport," "package arrived at receive distribution hub," "package exited receive distribution hub," and "package delivered." (See column 4, lines 25-45, disclosing "departure and arrival times.") It should further be noted that the specific quoted limitations in claim 49 are merely nonfunctional printed matter. USPTO personnel need not give patentable weight to printed matter absent a new and unobvious functional relationship between the printed matter and the substrate. See *In re Lowry*, 32 F.3d1579, 1583-84, 32

USPQ2d 1031, 1035 (Fed. Cir. 1994); In re Ngai, 367 F.3d1336, 70 USPQ2d 1862 (Fed. Cir. 2004). Thus, the limitations are given no patentable weight.

In regard to claim 50 (interpreted to be dependent on claim 33), Westbury further discloses wherein the event data comprises location data indicating a location at which the event occurred. (See column 4, lines 25-45, disclosing “pickup location.”)

In regard to claim 51 (dependent on claim 50), Westbury further discloses wherein the processor of the carrier computer system is further configured to:

- determine the location at which the event occurred based on data identifying at least one of the scanner and portal received with the package identification data. (See column 4, lines 25-45.)

In regard to claim 52 (dependent on claim 50), Westbury does not disclose a scanner. Swan discloses the scanner, wherein the scanner generates location data indicating a location at which the event corresponding to the event data occurred, the location data included with the package identification data reported by the scanner.

Swan discloses a portal with a scanner which generates location data indicating a location at which the event corresponding to the event data occurred. (See column 4, line 50 - column 5, line 10.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Westbury to include wherein the portal has a scanner because scanners would allow the system to read information about the items at the portal and “maintain disposition information about the items, which is made visible to enterprises in the supply chain.” (See column 1, under “SUMMARY”.)

In regard to claim 53 (depending on claim 52), Westbury discloses wherein the location includes at least the sender's location. (See column 4 lines 25-65.)

In regard to claim 54 (dependent on claim 33), Westbury discloses wherein the event data comprises data indicating date and time at which the event occurred. (See column 4 lines 25-65.)

In regard to claims 55-56 (dependent on claim 54), Westbury discloses wherein the processor of the carrier computer system is further configured to:

- timestamp the received package identification data with date and time data and store the same in association with the package identification. (See column 4 lines 25-65)

Westbury does not disclose wherein the package identification data is received from the scanner. Swam discloses wherein the package identification data is received from the scanner. (See column 4, line 50 - column 5, line 10.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to include wherein the package identification data is received from the scanner because that would allow a tag to be read "without physical contact between the tag and the reader." (See column 4.)

In regard to claim 56 (dependent on claim 54), Westbury does not disclose wherein the scanner timestamps the package identification data and transmits the same to the carrier computer system. However, Westbury does disclose receiving the package identification data and transmitting the package identification information to the carrier computer system. (See column 4.)

Swan discloses wherein the package identification data is time stamped by the scanner. (See column 4, line 50 - column 5, line 10 and column 14, lines 5-12, disclosing "timestamp.")

It would have been obvious to one of ordinary skill in the art at the time of the invention to include wherein the package identification data is received from the scanner because that would allow a tag to be read "without physical contact between the tag and the reader." (See column 4.)

Claims 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Westbury et al. (US 6,873,963, referred hereinafter as "Westbury") in view of Swan et al. (US 6,901,304, referred hereinafter as "Swan") in further view of DeVries et al. (US 2003/0009396, referred hereinafter as "DeVries").

In regard to claim 41 (dependent on claim 40), Westbury in view of Swan does not disclose wherein the package identification data is in the form of a barcode scanned by the optical scanner. (See column 4.)

DeVries discloses wherein the package identification data is in the form of a barcode scanned by the optical scanner. (See paragraph 147.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Westbury to include wherein the package identification data is in the form of a barcode scanned by the optical scanner as taught by DeVries so that "it is not

necessary to input data into a PC," thus making the operation "more efficient." (See paragraph 147.)

Claims 125-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westbury et al. (US 6,873,963, referred hereinafter as "Westbury") in view of Swan et al. (US 6,901,304, referred hereinafter as "Swan") in further view of Examiner's Official Notice.

In regard to claim 125 (dependent on claim 33), Westbury in view of Swan discloses a system further comprising:

- A second computer system comprising:
 - a processor configured to:
 - receive the tagged data from the carrier computer system (see column 3, lines 35-50, disclosing three links so that the tracking system can communicate with three computer systems, namely the supplier **12**, carrier **14**, and manufacturer **26**);

However, Westbury in view of Swan does not disclose:

- a processor configured to:
 - retrieve a corresponding network address of a third computer system; and
 - transmit the network address to the carrier computer system.

Examiner takes Official Notice that it is notoriously old and well-known in the art of computer networking to retrieve a network address of a computer system and transmit the network address to a second computer system.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Westbury to include to retrieve a network address of a third computer system and transmitting the network address to the carrier computer system because that would allow third parties to receive updated information regarding the packages in transmit.

In regard to claim 126 (dependent on claim 125), Westbury further discloses a system further comprising:

- A third computer system (see column 3, lines 35-50, disclosing three links so that the tracking system can communicate with three computer systems, namely the supplier **12**, carrier **14**, and manufacturer **26**; see also column 7, line 50 - column 8, line 25) corresponding to the network address comprising:
 - a processor configured to:
 - receive and store the tagged data (see column 3, lines 35-50; see also column 7, line 50 - column 8, line 25);
 - receive a request from one or more other computer systems of the sender, carrier, receiver, or supplier for the tagged data (see column 3, lines 35-50; see also column 7, line 50 - column 8, line 25) and

- to retrieve and transmit the tagged data that can be read and used by computer systems implementing various data formats, protocols, and applications (see column 3, lines 35-50; see also column 7, line 50 - column 8, line 25).

Newly submitted claims 127-133 are directed to a system which recites no new elements as those already presented and rejected. Thus, these elements are each rejected on a similar basis.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Silverbrook et al., US 2003/0195820 (User interaction facilitation method for net page computer system, involves sensing coded data in vicinity of interface surface, when net page sensing device is placed in operative position relative to interface surface)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT A. ZARE whose telephone number is (571)270-3266. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Gart can be reached on (571) 272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/
Primary Examiner, Art Unit 3687

Scott A. Zare
Art Unit 3687
April 25, 2008